



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

In the Matter of

**Docket Nos. 07-17-EA
07-18-ST**

HARRISON CAREER INSTITUTE,

Federal Student Aid
Proceeding

Respondent.

OPE-ID: 02586800

Appearances: Marie Nasuti, Esq., of Voorhees, New Jersey, for Harrison Career Institute.

Denise Morelli, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for Office of Federal Student Aid.

Before: Richard F. O'Hair, Administrative Judge

DECISION

Harrison Career Institute (Harrison) participates in the various federal student aid programs authorized under Title IV of the Higher Education Act of 1965 (Title IV), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* The Office of Federal Student Aid (FSA) of the United States Department of Education (Department) administers these programs. On April 24, 2007, FSA issued a combined emergency action and termination proceeding against Harrison. FSA based its action on the fact that Harrison lost its accreditation and, therefore, no longer qualifies as an eligible institution under the provisions of Title IV. Harrison timely appealed this action on May 10, 2007.

Harrison's accreditation problems began when its accrediting body, the Accrediting Commission of Career Schools and Colleges of Technology (ACC SCT) notified Harrison on September 28, 2006, that it had issued a decision revoking the school's accreditation. Harrison appealed this decision and ACC SCT extended to Harrison the opportunity to submit written materials and to have an oral hearing to rebut ACC SCT's decision. ACC SCT's appeal panel

upheld the original revocation of accreditation and notified Harrison of this finding on April 13, 2007. FSA initiated the current adverse action upon receipt of a copy of ACCSCT's April 13 decision.

Harrison does not contest, in this proceeding, the grounds upon which ACCSCT withdrew its accreditation, but rather challenges the jurisdiction of this tribunal to adjudicate the instant emergency action/ termination proceeding. First, it points out that its Vineland Campus is currently the subject of a long pending termination proceeding before another administrative judge in the Office of Hearings and Appeals, Chief Judge Canellos. *In the Matter of Harrison Career Institute*, Dkt. No. 05-60-ST. Harrison relates that on April 17, 2007, FSA presented Judge Canellos with a Motion to Dismiss that is based upon evidence of Harrison's loss of accreditation, the identical issue before this tribunal, and Judge Canellos refused to dismiss the action. As a consequence, Harrison is concerned it "may well now be subject to two wholly inconsistent decisions on identical issues in the same matter in controversy as determined by two administrative tribunals of the same level." It argues that such a situation would be an abrogation of collateral estoppel as well as *res judicata*. Harrison also views the instant proceeding as an example of FSA's "judge shopping" because it has filed a new proceeding before different judges of the same tribunal "seeking the same relief they had just been denied 'down the hall'."

Harrison's argument is that the emergency action/termination action before me represents a second proceeding, duplicative of the one pending before Judge Canellos. I am not familiar with the specific allegations against Harrison in that proceeding, other than information I have gleaned from evidence submitted by Harrison in the instant case. From that I have determined Judge Canellos' case involves issues of staff development and qualifications, educational quality, retention and replacement rates, educational resources, and refund problems. It appears to me that only by means of a motion to dismiss Judge Canellos' proceeding because of Harrison's loss of accreditation that the issue of accreditation was even raised before him. This loss was not an issue in the protracted hearing that was conducted in that case. I am informed that Judge Canellos denied FSA's motion to dismiss and, to date, has issued no decision on the merits of the case before him. Harrison has cited no authority that either permits or precludes FSA from initiating a second termination action against an institution that is based on a wholly different ground before such time as a pending termination proceeding against the same institution has been finalized. If FSA is not barred from initiating a second proceeding, then this tribunal has the jurisdiction to hear such a case. Without a decision from Judge Canellos on his case, Harrison's concerns about inconsistent findings, *res judicata*, and collateral estoppel are irrelevant.

Addressing the only issue before me, Harrison's eligibility to participate further in Title IV programs, the regulations are clear that, among other things, to be eligible an institution must be accredited by a nationally recognized accrediting agency. 20 U.S.C. § 1001(a)(5); 34 C.F. R. § 600.4(a)5. When an institution loses that accreditation, it simultaneously loses its Title IV eligibility. 34 C.F. R. § 600.5(a)(6), 600.40(a)(1)(i). The regulations are equally clear that if the loss of accreditation is the sole basis for the loss of eligibility, the presiding official has no authority to consider challenges to the action of the accrediting agency. 34 C.F. R. § 600.41(e).

See, e.g., In re International Academy of Hair Design and Technology, U.S. Dept. of Educ., Dkt. No. 93-124-ST (Aug. 4, 1994); *In re Clerical Art School*, U.S. Dept. of Educ., Dkt. No. 00-04-ST (May 9, 2000).

Given the facts of this case, ACCSCT's April 13, 2007, decision to revoke Harrison's accreditation automatically caused it to lose its Title IV eligibility and it may no longer participate in Title IV programs.

ORDER

On the basis of the foregoing, it is hereby **ORDERED** that Harrison Career Institute's eligibility to participate further in Title IV programs be terminated.

Judge Richard F. O'Hair

Dated: August 31, 2007

SERVICE

A copy of the attached initial decision was sent by certified mail, return receipt requested, to the following:

Marie V. Nasuti, Esq.
1605 Evesham Road
Voorhees, NJ 08043

Denise Morelli, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-2110